

IN THE HIGH COURT OF BOMBAY AT GOA.

APPEAL FROM ORDER NO. 55 OF 2002.

1. Desiderio Asiz Fernandes,
2. Maria Felicia Inacinha Fernandes,
both r/at H.No. 254 (Old No. 160),
Veroda, Cuncolim, Salcete-Goa. ... Appellants.

Versus

1. Conceicao Rosario Fernandes,
2. Felismina Fernandes,
both r/at H.No. 254 (Old No. 160),
Veroda, Cuncolim, Salcete-Goa.
3. Rosa Maria Fernandes,
4. Inacio Rodrigues,
both r/at Sarzora Vitolband,
Cuncolim, Salcete-Goa. ... Respondents.

Mr. M.B. D'Costa, Advocate for the Appellants.

Mr. C.A. Ferreira, Advocate for the Respondents 1 and 2.

Coram: P.V. HARDAS, J.

Date: 24th October 2002.

ORAL JUDGMENT.

By consent of parties, this Appeal from Order is taken up for final disposal at the stage of admission.

2. The appellants have filed this Appeal against the Order, dated 8th July 2002, passed by the Comarca Judge of Salcete and Quepem, in Inventory Proceedings No. 12 of 1989, whereby the learned Comarca Judge rejected the application at Exhibit 24, filed by the present appellants, for removal of the Cabeça de Casal. The respondents had filed their reply. The learned Judge held that none of the grounds for the removal of the Cabeça de Casal were satisfied and, therefore,

rejected the application. The learned Judge also declined the request on behalf of the present appellants for holding an inquiry as is contemplated under Article 1439 of the Portuguese Civil Procedure Code.

3. At the hearing of this Appeal Mr. Ferreira, the learned counsel appearing on behalf of the respondents has fairly stated, upon instructions, that the Cabeça de Casal would, on his own, step down and make way for appointment of a new Cabeça de Casal. Both the learned counsel then urged before me that, since the Inventory Proceedings are pending since 1989, the learned Comarca Judge be directed to decide the Inventory Proceedings expeditiously.

4. In view of what has been submitted on behalf of the respondents, the Order of the learned Comarca Judge, dated 8th July 2002 is, hereby, quashed and set aside. On receipt of the writ of this Court, the learned Comarca Judge shall proceed with the appointment of a new Cabeça de Casal according to law and, thereafter, shall expeditiously decide the Inventory Proceedings on merits preferably within 6 months thereof.

5. The Appeal from Order is, accordingly,

disposed of with no order as to costs.

(P.V. HARDAS)
JUDGE.

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